



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2018-0512; FRL-9994-19-Region 9]

Air Plan Approval; California; Mojave Desert Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve revisions to the Mojave Desert Air Quality Management District (MDAQMD or “District”) portion of the California State Implementation Plan (SIP). These revisions concern emissions of volatile organic compounds (VOCs) from wood products coating operations and organic solvent degreasing operations. We are approving local rules to regulate these emission sources under the Clean Air Act (CAA or the Act). We are also approving revisions to a definitions rule. Finally, we are converting the partial conditional approval of the District’s reasonably available control technology (RACT) SIPs for the 1997 and 2008 ozone standards, as it applies to VOC emissions from wood products coating operations and organic solvent degreasing operations, to a full approval.

DATES: These rules will be effective on [Insert date 30 days after date of publication in the *Federal Register*].

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2018-0512. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, *e.g.*,

Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Nancy Levin, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972-3848 or by email at levin.nancy@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us,” and “our” refer to the EPA.

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I. Proposed Action

On December 27, 2018 (83 FR 66658), the EPA proposed to approve the following rules into the California SIP.

Local Agency	Rule #	Rule Title	Amended	Submitted
MDAQMD	1114	Wood Products Coating Operations	1/22/2018	5/23/2018
MDAQMD	1104	Organic Solvent Degreasing Operations	4/23/2018	7/16/2018
MDAQMD	102	Definition of Terms	4/23/2018	8/22/2018

We proposed to approve these rules because we determined that they comply with the relevant CAA requirements. We also proposed to find that the modifications to rules 1114 and 1104 satisfied the District's commitment to remedy deficiencies identified in the partial conditional approval of the District's RACT SIPs for the 1997 and 2008 ozone standards (83 FR 5921). Our proposed action contains more information on the rules and our evaluation.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period that closed on January 28, 2019. During this period, we received eight comments. Two comments supported the proposed action, and two comments discussed issues unrelated to the proposed action. The EPA does not provide a response to those four comments. The remaining four comments are summarized below into two separate issues, with EPA responses.

Comment #1: Three commenters asked whether the revisions to Rule 1114 would result in additional costs to businesses, cause businesses to move out of state, or reduce California's wood products supply. One commenter asked whether there is any additional data showing that VOCs are harmful to the environment.

Response #1: In this action we are approving into the California SIP a rule that was drafted and adopted by the MDAQMD. In its RACT SIP submittal¹ the District compared its rule with the EPA Control Techniques Guidelines (CTG) for Control of Volatile Organic Compound Emissions from Wood Furniture Manufacturing Operations (EPA-453/R-96-007), and with other district rules in order to determine

¹ The District's 2015 RACT SIP submittal for the 2008 ozone NAAQS can be found in the docket for this rulemaking. The EPA's final action partially approving and partially conditionally approving the MDAQMD RACT SIP can be found at 83 FR 5921 (February 12, 2018).

which control technologies are reasonably available. The CTG contains the EPA's analysis regarding which controls were found to be reasonably available for this source category taking into account various factors for determining RACT, and it includes an assessment of costs associated with the recommended RACT options. As explained in our proposal and technical support document, the EPA's analysis concluded that the District's rules meet the requirements necessary for RACT. The comments received do not address or challenge this determination. Moreover, because Rule 1114 has already been implemented locally, the EPA's approval of the rule is not expected to result in any additional compliance costs, or to otherwise affect the local market for wood products and coatings. The EPA's approval simply makes the existing locally-implemented rule federally enforceable.

Volatile Organic Compounds are a precursor to ozone formation, which is harmful to human health and the environment. Information about the health and environmental impacts of VOCs and ground-level ozone is available on the EPA website.² The impacts of ozone exposure are evaluated by the EPA when setting the national ambient air quality standards.

Comment #2: One commenter states that the use of the phrase "coatings and adhesives" is overly broad, and that the EPA should list the specific VOC compounds and manufacturers affected by the rule revisions.

Response #2: District Rule 102 contains a definition of VOC that applies to Rule 1114. The VOC definition specifies the VOCs that are regulated in Rule 1114. In addition, Rule 1114

² For example: <https://www.epa.gov/ground-level-ozone-pollution/ground-level-ozone-basics>.

section (C)(7)(a) provides: “The manufacturer of Coatings subject to this Rule shall include a statement of VOC Content as supplied on data sheets; including Coating components, expressed in grams per liter or pounds per gallon, excluding water and exempt Solvents.” These provisions provide regulated entities with the information needed to evaluate rule applicability and compliance.

III. EPA Action

No comments were submitted that change our assessment of the rules as described in our proposed action. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is fully approving these rules into the California SIP. The EPA is also converting the partial conditional approval of the District’s RACT SIPs with respect to Rules 1104 and 1114 into a full approval.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Mojave Desert rules described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA’s role is to approve state choices,

provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and

Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the *Federal Register*]**. Filing a petition for reconsideration by

the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 14, 2019.

Deborah Jordan,
Acting Regional Administrator,
Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Subpart F – California

2. Section 52.220 is amended by adding paragraphs (c)(37)(i)(D), (c)(41)(xiv)(B), (c)(44)(v)(C), (c)(179)(i)(B)(3), (c)(188)(i)(C)(3), (c)(207)(i)(D)(4), (c)(244)(i)(C)(3), and (c)(518), (519) and (520) to read as follows:

§52.220 Identification of plan-in part.

(c)***

(37)***

(i)***

(D) Previously approved on June 14, 1978 in paragraph (c)(37)(i)(A) of this section and now deleted with replacement in paragraph (c)(520)(i)(A)(I) of this section in the Mojave Desert Air Quality Management District, Rule 102.

(41)***

(xiv)***

(B) Previously approved on December 19, 1978 in paragraph (c)(41)(xiv)(A) of this section and now deleted with replacement in paragraph (c)(520)(i)(A)(I) of this section in the Mojave Desert Air Quality Management District, Rule 102 (except for the definition of “agricultural burning”).

(44)***

(v)***

(C) Previously approved on March 28, 1979 in paragraph (c)(44)(v)(A) of this section and now deleted with replacement in paragraph (c)(520)(i)(A)(I) of this section in the Mojave Desert Air Quality Management District, Rule 102, amended November 4, 1977.

(179)***

(i)***

(B)***

(3) Previously approved on November 27, 1990 in paragraph (c)(179)(i)(B)(I) of this section and now deleted with replacement in paragraph (c)(520)(i)(A)(I) of this section, Rule 102 (except fugitive liquid leak and fugitive vapor leak), amended on December 19, 1988.

(188)***

(i)***

(C)***

(3) Previously approved on December 20, 1993 in paragraph (c)(188)(i)(C)(I) of this section and now deleted with replacement in paragraph (c)(519)(i)(A)(I) of this section in the Mojave Desert Air Quality Management District, Rule 1171, adopted August 2, 1991.

(207)***

(i)***

(D)***

(4) Previously approved on April 30, 1996 in paragraph (c)(207)(i)(D)(2) of this section and now deleted with replacement in paragraph (c)(519)(i)(A)(I) of this section, Rule 1104, adopted on September 28, 1994.

* * *

(244)***

(i)***

(C)***

(3) Previously approved on August 18, 1998 in (c)(244)(i)(C)(I) of this section and now deleted with replacement in (c)(518)(i)(A)(I) of this section, Rule 1114, amended on November 25, 1996.

(518) New and amended regulations for the following APCDs were submitted on May 23, 2018 by the Governor's designee.

(i) *Incorporation by reference.* (A) Mojave Desert Air Quality Management District.

(I) Rule 1114, "Wood Products Coating Operations," amended on January 22, 2018.

(2) [Reserved]

(B) [Reserved]

(ii) [Reserved]

(519) New and amended regulations for the following APCDs were submitted on July 16, 2018 by the Governor's designee.

(i) *Incorporation by reference.* (A) Mojave Desert Air Quality Management District.

(I) Rule 1104, "Organic Solvent Degreasing Operations," amended on April 23, 2018.

(2) [Reserved]

(B) [Reserved]

(ii) [Reserved]

(520) New and amended regulations for the following APCDs were submitted on August 22, 2018 by the Governor's designee.

(i) *Incorporation by reference.* (A) Mojave Desert Air Quality Management District.

(I) Rule 102, "Definition of Terms," amended on April 23, 2018.

(2) [Reserved]

(B) [Reserved]

(ii) [Reserved]

3. Section 52.248 is amended by revising paragraph (d) to read as follows:

§52.248 Identification of plan – conditional approval.

(d)(1) The EPA is conditionally approving portions of the California SIP revisions submitted on July 11, 2007 and September 9, 2015, demonstrating control measures in the Mojave Desert portion of the Los Angeles-San Bernardino Counties (West Mojave Desert) nonattainment area implement RACT for the 1997 and 2008 ozone standards. The conditional approval is based on a commitment from the state to submit new or revised rules that will correct deficiencies in the following rules for the Mojave Desert Air Quality Management District:

(i) Rule 461, *Gasoline Transfer and Dispensing*;

(ii) Rule 462, *Organic Liquid Loading*;

(iii) Rule 463, *Storage of Organic Liquids*;

(iv) - (v) [Reserved]

(vi) Rule 1115, *Metal Parts and Product Coating Operations*;

(vii) Rule 1157, *Boilers and Process Heaters*;

(viii) Rule 1160, *Internal Combustion Engines*;

(ix) Rule 1161, *Portland Cement Kilns*; and

(x) Rule 1162, *Polyester Resin Operations*.

(2) If the State fails to meet its commitment by January 31, 2019, the conditional approval is treated as a disapproval.

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